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# TRANSCRIPT OF RECORD

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

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No. 134

THE UNITED STATES OF AMERICA,
APPELLANT,

vs.

JAY G. WILLIAMS, CHARLES R. FORD, JOHN S. BOMBACI and ANDREW J. YUHAS.

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA.

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FILED JUNE 16, 1950.

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1 In the United States District Court in and for the Southern District of Florida

No. 7333-M-Cr.

UNITED STATES OF AMERICA,

vs.

JAY G. WILLIAMS, CHARLES R. FORD, JOHN S. BOMBACI, and ANDREW J. YUHAS.

*Indictment (Title 18 U. S. C.) (1621)—Filed Feb. 25, 1949*

The Grand Jury charges:

COUNT ONE

Heretofore on, to-wit, the 17th day of January, A. D. 1949, a certain criminal trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being Case No. 7279-M-Criminal, wherein the United States as plaintiff was prosecuting Jay G. Williams, Joseph V. Perry, John S. Bombaci, Charles R. Ford, Andrew J. Yuhas and Lindsley Lumber Co., a corporation, which name in the course of the trial was amended to read "Dania Supply Co., a corporation doing business as Lindsley Lumber Co."; that in said Case No. 7279-M Criminal the defendants therein, in Count One thereof, were charged with a violation of Section 51 of Title 18 U. S. C. in that the said defendants, as it was alleged, did conspire to injure, oppress, threaten and intimidate one Frank J. Purnell, Jr., in the free exercise and enjoyment of certain rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law,

2 the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that it was the plan and purpose of said conspiracy that on or about the 28th day of March, 1947, the said defendants

would arrest and detain and cause to be arrested and detained the said FRANK J. PURNELL, JR. and would cause the said FRANK J. PURNELL, JR. to go to and into a certain building, sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and that they, the said defendants would detain the said FRANK J. PURNELL, JR. in said shack or building and that while said FRANK J. PURNELL, JR. was so detained, the said defendants or some of them would then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of guilt in connection with the alleged theft of personal property alleged to belong to the said Dania Supply Co., doing business as Lindsley Lumber Co. and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co., doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR., and thereupon it became and was then and there a material question in the hearing and determination of said criminal trial, whether or not, in said building

3 sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, on or about the 20th day of March, 1947, the said FRANK J. PARNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by JAY G. WILLIAMS, one of the defendants then on trial.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said Court, the said defendant JAY G. WILLIAMS was then and there called and produced as a witness on his own behalf, and on behalf of the other defendants, then and there on trial as aforesaid; that as such witness in said criminal trial aforesaid, the said JAY G. WILLIAMS, on said 19th day of January, 1949, was duly sworn by Albert E. Call, a Deputy Clerk of the said Court to testify the truth, the whole truth and nothing but the truth, he, the said Albert E. Call, as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to administer such oath:

And being then and there a witness in said criminal trial aforesaid, and being so duly sworn as aforesaid, the said defendant JAY G. WILLIAMS, on to-wit, the 19th day of January, 1949, did knowingly, wilfully, corruptly, feloniously and falsely depose and say in substance that he, the said JAY G. WILLIAMS, had not, on the 28th day of March, A. D. 1947, in said building or shack aforesaid, struck, bruised, battered, beaten, assaulted or tortured the said FRANK J. PURNELL, JR. whereas in truth and in fact the said JAY G. WILLIAMS at the time and place last aforesaid, to-wit, in said building or shack herein described on, to-wit, the 26th day of March, A. D. 1947, had struck, bruised, battered, beaten, assaulted and tortured the said FRANK J. PURNELL, JR., in all of which particulars, with respect to the purported striking, bruising, battering, beating, assaulting
4 and torturing the said FRANK J. PURNELL, JR. so testified to as aforesaid by said defendant JAY G. WILLIAMS, the testimony, statements and declarations so testified and deposed unto by him the said JAY G. WILLIAMS were then and there material in and to the said criminal trial so held as aforesaid and the issues then being tried, and were then and there not true, but were false, and were then and there by him, the said JAY G. WILLIAMS, not believed to be true, but were then and there by him, the said JAY G. WILLIAMS, believed to be false.

And so the grand jurors aforesaid, do find, say and charge that the said JAY G. WILLIAMS on said 19th day of January, A. D. 1949, at Miami, Florida, in the district aforesaid and within the jurisdiction of this court, in and by his oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

The offense described in this and each other count, severally, of this indictment, is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in any other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

COUNT TWO

Heretofore, on to-wit, the 17th day of January, A. D. 1949, a certain trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being Case No 7279-M

Criminal wherein the United States as plaintiff was prosecuting JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, which name in the course
5 of the trial was amended to read "Dania Supply Co., a corporation doing business as Lindsley Lumber Co."; that in said case No. 7279-M Criminal the defendants therein, in Count Two thereof, were charged with a violation of Section 52 of Title 18 U. S. C. in that, as it was alleged, the defendants, JAY G. WILLIAMS and JOSEPH V. PERRY were Special Police Officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of Special Police Officer, and describing the duties of said office and position, and CHARLES R. FORD was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, and that said JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD, as such officers did wilfully under color of the laws, statutes, ordinances, regulations and customs of the State of Florida and municipality of Miami in said state, creating the office and position of police officer, and special police officer, of the municipality of Miami, Florida, subject and cause to be subjected FRANK J. PURNELL, JR., an inhabitant of the State of Florida, to deprivation of rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in
6 the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, A. D. 1947, the defendants

arrested and detained, and caused to be arrested and detained, the said FRANK J. PURNELL, JR. and brought and caused to be brought to and into a certain building sometimes called a shack on the premises of the Dania Supply Co., a corporation doing business as Lindsley Lumber Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and did then and there detain the said FRANK J. PURNELL, JR. and while he was so detained the said defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of said Dania Supply Co. doing business as Lindsley Lumber Co., and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co. doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR., that at the time and places in said indictment stated ANDREW J. YUHAS, and DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co., well knowing the premises did wilfully aid and abet in the commission by the defendants JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD of the offense described in said Count Two; thereupon it became and was then and there a material question in the determination of said criminal trial,

7 whether or not, in said building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, on or about the 28th day of March, 1947, the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by JAY G. WILLIAMS, one of the defendants then on trial.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said court, the said defendant JAY G. WILLIAMS was then and there called and produced as a witness on his own behalf, and on behalf of the other defendants, then and there on trial as aforesaid; that as such witness in said criminal trial aforesaid, the said JAY G. WILLIAMS on said 19th day of January, 1949 was duly sworn by Albert E. Call, a Deputy Clerk of the said Court, to testify the truth, the whole

truth and nothing but the truth, he, the said Albert E. Call as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to Administer such oath;

And being then and there a witness in said criminal trial aforesaid, and being so duly sworn as aforesaid, the said defendant JAY G. WILLIAMS on said 19th day of January, 1949, or thereafter, did knowingly, wilfully, corruptly, feloniously and falsely depose and say in substance that he, the said JAY G. WILLIAMS, had not, on the 28th day of March, A. D. 1947, in said building or shack aforesaid, struck, bruised, battered, beaten, assaulted or tortured the said FRANK J. PURNELL, JR., whereas in truth and in fact the said JAY G. WILLIAMS at the time and place last aforesaid, to-wit, in said building or shack herein described on, to-wit, the 28th day of March, A. D. 1947, had struck, bruised, battered, beaten, assaulted and tortured the said FRANK J. PURNELL, JR., in all of which particulars, with respect to the purported striking, bruising, battering, beating,
8 assaulting and torturing the said FRANK J. PURNELL, JR. so testified to as aforesaid by said defendant JAY G. WILLIAMS the testimony, statements and declarations so testified and deposed unto by the said JAY G. WILLIAMS were then and there material in and to the said criminal trial so held as aforesaid and the issues then being tried, and were then and there not true, but were false, and were then and there by the said JAY G. WILLIAMS not believed to be true, but were then and there by him the said JAY G. WILLIAMS believed to be false.

And so the grand jurors aforesaid, do find, say and charge that the said JAY G. WILLIAMS on said 19th day of January, A. D. 1949, at Miami, Florida, in the district aforesaid and within the jurisdiction of this court, in and by his oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

The offense described in this and each other count, severally, of this indictment, is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in any other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

COUNT THREE

Heretofore on, to-wit, the 17th day of January, A. D. 1949, a certain criminal trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being case No. 7279-M Criminal, wherein the United States as plaintiff was prosecuting JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation, which name in the course of the trial was amended to read "DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co."; that in said Case No. 7279-M Criminal the defendants therein, in Count One thereof, were charged with a violation of Section 51 of Title 18 U. S. C. in that the said defendants, as it was alleged, did conspire to injure, oppress, threaten and intimidate one FRANK J. PURNELL, JR., in the free exercise and enjoyment of certain rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that it was the plan and purpose of said conspiracy that on or about the 28th day of March, 1947, the said defendants would arrest and detain and cause to be arrested and detained the said FRANK J. PURNELL, JR. and would cause the said FRANK J. PURNELL, JR. to go to and into a certain building, sometimes
10 called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and that they, the said defendants would detain the said FRANK J. PURNELL, JR. in said shack or building and that while said FRANK J. PURNELL, JR. was so detained, the said defendants or some of them would then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in

order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of guilt in connection with the alleged theft of personal property alleged to belong to the said DANIA SUPPLY CO., doing business as Lindsley Lumber Co. and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co., doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR. and in Count Two thereof, were charged with a violation of Section 52 of Title 18 U. S. C. in that, as it was alleged, the defendants, JAY G. WILLIAMS and JOSEPH V. PERRY were Special Police Officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of Special Police Officer, and describing the duties of said office and position, and CHARLES R. FORD was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position,

11 and that said JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD, as such officers did wilfully under color of the laws, statutes, ordinances, regulations and customs of the State of Florida and municipality of Miami in said state, creating the office and position of police officer, and special police officer, of the municipality of Miami, Florida, subject and cause to be subjected FRANK J. PURNELL, JR., an inhabitant of the State of Florida, to deprivation of rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found

guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, A. D. 1947, the defendants arrested and detained, and caused to be arrested and detained, the said FRANK J. PURNELL, JR. and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Dania Supply Co., a corporation doing business as Lindsley Lumber Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and did then and there detain the said FRANK J. PURNELL, JR. and while he was so detained the said defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of his guilt in connection with the alleged theft of
12 personal property alleged to be the property of said Dania Supply Co. doing business as Lindsley Lumber Co., and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co. doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR.; that at the time and places in said indictment stated ANDREW J. YUHAS and DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co., well knowing the premises did wilfully aid and abet in the commission by the defendants JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD of the offense described in said Count Two; and thereupon it became and was then and there a material question in the hearing and determination of said criminal trial, whether or not, in said building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, on or about the 28th day of March, 1947, the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by JAY G. WILLIAMS, one of the defendants then on trial.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said Court, the said defendant JAY G. WILLIAMS was then and there called and produced as a witness on his own behalf, and on behalf of the other defendants, then and there on trial as aforesaid; that as such witness in said criminal

trial aforesaid, the said JAY G. WILLIAMS, on said 19th day of January, 1949, was duly sworn by Albert E. Call, a Deputy Clerk of the said Court to testify the truth, the whole truth and nothing but the truth, he, the said Albert E. Call, as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to administer such oath;

13 And being then and there a witness in said criminal trial aforesaid, and being so duly sworn as aforesaid, the said defendant JAY G. WILLIAMS, on to-wit, the 19th day of January, 1949, did knowingly, wilfully, corruptly, feloniously and falsely depose and say in substance that he, the said JAY G. WILLIAMS, had not, on the 28th day of March, A. D. 1947, in said building or shack aforesaid, struck, bruised, battered, beaten, assaulted or tortured the said FRANK J. PURNELL, JR. whereas in truth and in fact the said JAY G. WILLIAMS at the time and place last aforesaid, to-wit, in said building or shack herein described on, to-wit, the 28th day of March, A. D. 1947, had struck, bruised, battered, beaten, assaulted and tortured the said FRANK J. PURNELL, JR., in all of which particulars, with respect to the purported striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR. so testified to as aforesaid by said defendant JAY G. WILLIAMS, the testimony, statements and declarations so testified and deposed unto by him the said JAY G. WILLIAMS were then and there material in and to the said criminal trial so held as aforesaid and the issues then being tried, and were then and there not true, but were false, and were then and there by him, the said JAY G. WILLIAMS, not believed to be true, but were then and there by him, the said JAY G. WILLIAMS, believed to be false.

And so the grand jurors aforesaid, do find, say and charge that the said JAY G. WILLIAMS on said 19th day of January, A. D. 1949, at Miami, Florida, in the district aforesaid and within the jurisdiction of this court, in and by his oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

The offense described in this and each other count, severally, of this indictment, is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in any other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

14 COUNT FOUR

Heretofore, on, to-wit, the 17th day of January, A.D. 1949, a certain criminal trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being Case No. 7279-M Criminal, wherein the United States as plaintiff was prosecuting JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation, which name in the course of the trial was amended to read "DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co."; that in said Case No. 7279-M Criminal, the defendants therein, in Count One thereof were charged with a violation of Section 51 of Title 18 U. S. C. in that the said defendants, as it was alleged, did conspire to injure, oppress, threaten and intimidate one FRANK J. PURNELL, JR., in the free exercise and enjoyment of certain rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida: and that it was the plan and purpose of said conspiracy that on or about the 28th day of March, 1947, the said defendants would arrest and

15 detain and cause to be arrested and detained the said Frank J. Purnell, Jr. and would cause the said FRANK J. PURNELL, JR. to go to and into a certain building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and that they, the said defendants would detain the said FRANK J. PURNELL, JR. in said shack or building and that while said FRANK J. PURNELL, JR. was so detained, the said defendants or some of them would then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PARNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to

make an admission and confession of guilt in connection with the alleged theft of personal property alleged to belong to the said Dania Supply Co., doing business as Lindsley Lumber Co. and in order to illegally coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co., doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR., and thereupon it became and was then and there a material question in the hearing and determination of said criminal trial whether or not, in said building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, on or about the 28th day of March, 1947, the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by JAY G. WILLIAMS, one of the defendants then on trial, and particularly it thereupon became and was a material question, in the criminal trial aforesaid, whether or not in the presence of the defendant CHARLES R. FORD the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by the said JAY G. WILLIAMS, and whether or not the said CHARLES R. FORD had observed and seen the said JAY G. WILLIAMS in the act of striking, bruising, battering, beating, assaulting and torturing said Frank J. Purnell, Jr.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said court, the said defendant CHARLES R. FORD was then and there called and produced as a witness on his own behalf, and on behalf of the other defendants, then and there on trial as aforesaid; that as such witness in said criminal trial aforesaid, the said defendant CHARLES R. FORD on said 19th day of January, 1949 was duly sworn by Albert E. Call, a Deputy Clerk of the said Court, to testify the truth, the whole truth and nothing but the truth, the said Albert E. Call, as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to administer such oath;

And being then and there a witness in said criminal trial aforesaid, and being so sworn as aforesaid, the said defendant CHARLES R. FORD, on said 19th day of January, 1949 or thereafter, did knowingly, wilfully, corruptly, feloniously

and falsely depose and say in substance that the said FRANK J. PURNELL, JR. had not on the 28th day of March, A. D. 1947, in said building or shack aforesaid, in the presence of said CHARLES R. FORD, been struck, bruised, battered, beaten and assaulted by the said JAY G. WILLIAMS and that he, the said CHARLES R. FORD had not at the time and place last aforesaid seen and observed the said JAY G. WILLIAMS in the act of striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR., whereas in truth and in fact the said CHARLES R. FORD at the time last aforesaid, to-wit, in said building or shack herein described, on to-wit, the 28th day of March, A. D. 1947, had been present in said building and shack aforesaid when said JAY G. WILLIAMS did strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR. and at the time and place last aforesaid had seen and observed the said JAY G. WILLIAMS strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR., in all of which particulars, with respect to the purported striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR. by the said JAY G. WILLIAMS as so testified to as aforesaid by the said CHARLES R. FORD, the testimony, statements and declarations so testified and deposed unto by the said CHARLES R. FORD were then and there material in and to the said criminal trial so held as aforesaid, and were then and there not true, but were false, and were then and there by the said CHARLES R. FORD not believed to be true but were then and there by him, the said CHARLES R. FORD, believed to be false.

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And so the grand jurors aforesaid do find, say and charge that the said CHARLES R. FORD on said 19th day of January, 1949, at Miami, Florida, in the District aforesaid and within the jurisdiction of this court, in and by his oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

The offense described in this and each other count severally of this indictment is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in each and every other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

18 COUNT FIVE

Heretofore, on to-wit, the 17th day of January, A. D. 1949, a certain criminal trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being case No. 7279-M Criminal wherein the United States as plaintiff was prosecuting JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation, which name in the course of the trial was amended to read "Dania Supply Co., a corporation doing business as Lindsley Lumber Co."; that in said case No. 7279-M Criminal the defendants therein in Count Two thereof were charged with a violation of Section 52 of Title 18 U. S. C. in that said defendants, as it was alleged, JAY G. WILLIAMS and JOSEPH V. PERRY were Special Police Officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of Special Police Officer, and describing the duties of said office and position, and CHARLES R. FORD was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, did wilfully under color of the laws, statutes, ordinances, regulations and customs of the State of Florida and municipality of Miami in said state, creating the office and position of police officer of the municipality of Miami, Florida, subject and cause to be

19 subjected FRANK J. PURNELL, JR., an inhabitant of the State of Florida to deprivation of the rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and

privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, A. D. 1947, the defendants arrested and detained, and caused to be arrested and detained, the said FRANK J. PURNELL, JR. and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Dania Supply Co., a corporation doing business as Lindsley Lumber Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and did then and there detain the said FRANK J. PURNELL, JR. and while he was so detained the said defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of said Dania Supply Co. doing business as Lindsley Lumber Co., and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co. doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR.; that at the time and places in said indictment stated ANDREW J. YUHAS and DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co., well knowing the premises did wilfully aid and abet in the commission by the defendants JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD of the offense described in said Count Two; thereupon it became and was then and there a material question in the determination of said criminal trial, whether or not, in said building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, in the City of Miami, Dade County, Florida, on or about the 28th day of March, 1947, the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured by JAY G. WILLIAMS, one of the defendants then on trial.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said court, the said defendant CHARLES R. FORD was then and there called and produced as a witness on his own behalf, and on the behalf of the other defendants, then and there

on trial as aforesaid; that as such witness in said criminal trial aforesaid, the said defendant CHARLES R. FORD on said 19th day of January, 1949 was duly sworn by Albert E. Call, a Deputy Clerk of the said Court, to testify the truth, the whole truth and nothing but the truth, he, the said Albert E. Call, as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to administer such oath;

And being then and there a witness in said criminal trial aforesaid, and being so sworn as aforesaid, the said defendant CHARLES R. FORD, on said 19th day of
21 January 1949 or thereafter, did knowingly, wilfully, corruptly, feloniously and falsely depose and say in substance that the said FRANK J. PURNELL, JR. had not on the 28th day of March, A. D. 1947, in said building or shack aforesaid, in the presence of said CHARLES R. FORD, been struck, bruised, battered, beaten and assaulted by the said JAY G. WILLIAMS and that he, the said CHARLES R. FORD, had not at the time and place last aforesaid seen and observed the said JAY G. WILLIAMS in the act of striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR., whereas in truth and in fact the said CHARLES R. FORD at the time last aforesaid, to-wit, in said building or shack herein described, on to-wit, the 28th day of March, A. D. 1947, had been present in said building and shack aforesaid when said JAY G. WILLIAMS did strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR. and at the time and place last aforesaid had seen and observed the said JAY G. WILLIAMS strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR., in all of which particulars with respect to the purported striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR. by the said JAY G. WILLIAMS as so testified to as aforesaid by the said CHARLES R. FORD, the testimony, statements and declarations so testified and deposed unto by the said CHARLES R. FORD were then and there material in and to the said criminal trial so held as aforesaid, and were then and there not true, but were false, and were then and there by the said CHARLES R. FORD not believed to be true but were then and there by him, the said CHARLES R. FORD, believed to be false.

And so the grand jurors aforesaid do find, say and charge that the said CHARLES R. FORD on said 19th day of January, 1949, at Miami, Florida, in the District aforesaid and within the jurisdiction of this court, in and by his

oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

22 The offense described in this and each other count severally of this indictment is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in each and every other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

COUNT SIX

Heretofore, on to-wit, the 17th day of January, A. D. 1949, a certain criminal trial came on to be heard in the United States District Court in and for the Southern District of Florida, at Miami, Florida, the same being case No. 7279-M Criminal, wherein the United States as plaintiff was prosecuting JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation, which name in the course of the trial was amended to read "Dania Supply Co., a corporation doing business as Lindsley Lumber Co."; that in said case No. 7279-M Criminal, the defendants therein, in Count One thereof were charged with a violation of Section 51 of Title 18 U. S. C. in that the said defendants, as it was alleged, did conspire to injure, oppress, threaten and intimidate one FRANK J. PURNELL, JR. in the free exercise and enjoyment of certain rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida,

23 from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; and that it was the plan and purpose of said conspiracy that on or about the 28th day of March, 1947, the said defendants would arrest and detain and cause to be arrested and detained the said FRANK J. PURNELL, JR. and would cause the

said FRANK J. PURNELL, JR. to go to and into a certain building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and that they, the said defendants would detain the said FRANK J. PURNELL, JR. in said shack or building and that while said FRANK J. PURNELL, JR., was so detained, the said defendants or some of them would then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of guilt in connection with the alleged theft of personal property alleged to belong to the said Dania Supply Co., doing business as Lindsley Lumber Co. and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Dania Supply Co., doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR.; and in Count Two thereof were charged with a violation of Section 52 of Title 18 U. S. C. in that said defendants, as it was alleged, JAY G. WILLIAMS and JOSEPH V. PERRY were Special Police Officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of Special Police Officer, and describing the duties of said office and position, and CHARLES R. FORD was then and there a police officer employed by the municipality
24 of Miami, State of Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, did wilfully under color of the laws, statutes, ordinances, regulations and customs of the State of Florida and municipality of Miami in said state, creating the office and position of police officer of the municipality of Miami, Florida, subject and cause to be subjected FRANK J. PURNELL, JR., an inhabitant of the State of Florida to deprivation of the rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege

to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, A. D. 1947, the defendants arrested and detained, and caused to be arrested and detained, the said FRANK J. PURNELL, JR. and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Dania Supply Co., a corporation doing business as Lindsley Lumber Co. at or near 3810 Northwest 17th Avenue in the City of Miami, Dade County, Florida, and did then and there detain the said FRANK J. PURNELL, JR. and while he was so detained the said defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said FRANK J. PURNELL, JR. in order illegally to coerce and force the said FRANK J. PURNELL, JR. to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of said Dania Supply Co. doing business as Lindsley Lumber Co., and in order illegally to coerce and force the said FRANK J. PURNELL, JR. to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said DANIA SUPPLY CO. doing business as Lindsley Lumber Co. and for the purpose of imposing illegal summary punishment upon the said FRANK J. PURNELL, JR.; that at the time and places in said indictment stated ANDREW J. YUHAS and DANIA SUPPLY CO., a corporation doing business as Lindsley Lumber Co., well knowing the premises did wilfully aid and abet in the commission by the defendants JAY G. WILLIAMS, JOSEPH V. PERRY and CHARLES R. FORD of the offense described in said Count Two; and thereupon it became and was then and there a material question in the hearing and determination of said criminal trial whether or not, in said building sometimes called a shack, on the premises of said Dania Supply Co. at or near 3810 Northwest 17th Avenue, on or about the 28th day of March, 1947, the said FRANK J. PURNELL, JR. had been struck, bruised, battered, beaten, assaulted and tortured

by JAY G. WILLIAMS, one of the defendants then on trial, and particularly it thereupon became and was a material question, in the criminal trial aforesaid, whether or not in the presence of the defendant CHARLES R. FORD the said FRANK J. PURNELL, JR., had been struck, bruised, battered, beaten, assaulted and tortured by the said JAY G. WILLIAMS, and whether or not the said CHARLES R. FORD
26 had observed and seen the said JAY G. WILLIAMS in the act of striking, bruising, battering, beating, assaulting and torturing said FRANK J. PURNELL, JR.

Thereupon on the 19th day of January, 1949, while said case was still on trial and being heard by and before said court, the said defendant CHARLES R. FORD was then and there called and produced as a witness on his own behalf, and on behalf of the other defendants, then and there on trial as aforesaid; that as such witness in said criminal trial aforesaid, the said defendant CHARLES R. FORD on said 19th day of January, 1949 was duly sworn by Albert E. Call, a Deputy Clerk of the said Court, to testify the truth, the whole truth and nothing but the truth, he, the said Albert E. Call, as said Deputy Clerk, being then and there duly authorized and empowered under the laws of the United States to administer such oaths;

And being then and there a witness in said criminal trial aforesaid, and being so sworn as aforesaid, the said defendant CHARLES R. FORD, on said 19th day of January 1949 or thereafter, did knowingly, wilfully, corruptly, feloniously and falsely depose and say in substance that the said FRANK J. PURNELL, JR. had not on the 28th day of March, A. D. 1947, in said building or shack aforesaid, in the presence of said CHARLES R. FORD, been struck, bruised, battered, beaten and assaulted by the said JAY G. WILLIAMS and that he, the said CHARLES R. FORD had not at the time and place last aforesaid seen and observed the said JAY G. WILLIAMS in the act of striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR., whereas in truth and in fact the said CHARLES R. FORD at the time last aforesaid, to-wit, in said building or shack herein described, on to-wit, the 28th day of March,
A. D. 1947, had been present in said building and
27 shack aforesaid when said JAY G. WILLIAMS did strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR. and at the time and place last aforesaid had seen and observed the said JAY G. WILLIAMS strike, bruise, batter, beat, assault and torture said FRANK J. PURNELL, JR., in all of which particulars with respect

to the purported striking, bruising, battering, beating, assaulting and torturing the said FRANK J. PURNELL, JR. by the said JAY G. WILLIAMS as so testified to as aforesaid by the said CHARLES R. FORD, the testimony, statements and declarations so testified and deposed unto by the said CHARLES R. FORD were then and there material in and to the said criminal trial so held as aforesaid, and were then and there not true, but were false, and were then and there by the said CHARLES R. FORD not believed to be true but were then and there by him, the said CHARLES R. FORD, believed to be false.

And so the grand jurors aforesaid do find, say and charge that the said CHARLES R. FORD on said 19th day of January, 1949, at Miami, Florida, in the District aforesaid and within the jurisdiction of this court, in and by his oath so taken as aforesaid, and his testimony as aforesaid, did knowingly, wilfully, corruptly and feloniously commit wilful and corrupt perjury.

The offense described in this and each other count severally of this indictment is one of a series of connected acts and transactions, in which series of connected acts and transactions the defendant named in this count and each defendant named in each and every other count of this indictment participated.

In violation of Section 1621, Title 18 U. S. C. (1948 Ed.).

222 A true bill.

/s/ ERNEST J. C. DOLL
*Foreman*

/s/ FRED BOTTS
*Asst. United States Attorney*

223 (Reverse Side)

United States District Court
Southern District of Florida
Miami Division

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THE UNITED STATES OF AMERICA
vs.
JAY G. WILLIAMS, CHARLES R. FORD, JOHN S. BOMBACI, ANDRES J. YUHAS.

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*Indictment*

Sec. 1621, Title 18 U. S. C.
Perjury.
A true bill,

/s/ ERNEST J. C. DOLL
*Foreman.*

Filed in open court this 25th day of February, A. D. 1949.

EDWIN R. WILLIAMS,
*Clerk.*

By EARLE F. SPRIGG,
*Deputy Clerk.*

224 In United States District Court

*Motion of Charles R. Ford to Dismiss Indictment—Filed May 2, 1949.*

CHARLES R. FORD, one of the defendants herein, by and through his undersigned attorney, moves that the indictment in this cause be dismissed for the following reasons and upon the grounds herein assigned.

1. The indictment, and each and every count thereof, fails to charge an offense under the laws of the United States.

2. The indictment and each and every count thereof is duplicitous.

3. Unrelated offenses are improperly joined in the indictment.

4. It affirmatively appears that the several defendants named in the indictment are not alleged to have all participated in all of the acts or transactions charged, nor in the same series of acts or transactions, and, on the contrary,

it affirmatively appears that each of the defendants is alleged to have committed an act unrelated to and not in series with the acts alleged to have been committed by each of the other defendants, and that the defendants and improperly joined in the indictment.

5. The Court was without jurisdiction to try this defendant under the indictment in cause numbered 7279-M-Criminal.

6. The indictment in cause numbered 7279-M-Criminal does not state an offense punishable under the laws of the United States.

7. The Government is estopped, by reason of the verdict and judgment of acquittal of this defendant as to Counts numbered 2, 4, 6 and 8 of the indictment in cause numbered 7279-M-Criminal, in the light of the instructions given to the jury by the Court in that cause, to prosecute this defendant for the perjury alleged in the indictment in the case at bar.

225 Respectfully submitted,

/s/ JOHN D. MARSH
John D. Marsh
1402-Courthouse
Miami, Florida
*Attorney for Charles R. Ford*

RECEIPT of a copy of the above Motion is hereby acknowledged, this the 2nd day of May, A. D. 1949.

ASSISTANT UNITED STATES DISTRICT ATTORNEY

By FRED BOTTS
By E.

In United States District Court

*Motion of Jay G. Williams to Dismiss Indictment—Filed May 2, 1949*

The Defendant, JAY G. WILLIAMS, moves that the indictment and each count thereof, numbered 1, 2, 13, 14, 15, 25, 26, 27, 37, 38 and 39 and such other separate count wherein this Defendant is the defendant, jointly and severally, be dismissed on the following grounds:

1) That said indictment does not state facts sufficient to constitute an offense against the United States of America.

2) Section 51 of Title 18 United States Code deals with threats to civil rights arising from the action of private in-

dividuals, while Section 52 covers actions of public officers acting under color of law, and the Indictment on its face shows that the Defendants, JAY G. WILLIAMS and CHARLES R. FORD were officers of the State of Florida, and therefore, Section 51 does not cover any of the actions of such officers.

3) Said Section 51, Title 18, United States Code is unconstitutional because it is vague, uncertain, indefinite and insufficient, and an Indictment based thereon does not apprise a Defendant of the true cause and character of the accusation he is called upon to defend, and for that a conviction or acquittal under an Indictment based on said Section would subject the Defendant to substantial
226 danger of another prosecution for the same offense.

4) Said Section 51, Title 18, United States Code lacks the specificity necessary in a constitutional statute, in accordance with the opinion of the United States Supreme Court in the case of Screws vs. United States 325 U. S. 90.

5) And as grounds of estoppel or former of jeopardy or *res adjudicata,* this Defendant alleges that in said case No. 7279-M-Criminal referred to in the indictment, was a case in which these individual defendants in the instant case and others were charged with the violation of the substantive crime in counts 2-4-6 and 8 of said case No. 7279-M-Criminal, with the violation of Section 52 of Title 18 U. S. C. (1946 Ed.), and in counts numbered 1-3-5 and 7 in said indictment No. 7279-M-Criminal, with a conspiracy to violate Section 51 of Title 18 U. S. C. (1946 Ed.) in which said last counts these defendants and others were defendants, and that the said defendants, JAY G. WILLIAMS, CHARLES R. FORD, JOHN S. BOMBACI and ANDREW J. YUHAS and others, after being arraigned and having plead not guilty to said Indictment in said Case No. 7279-M-Criminal of this Court, were, on January 17, 1949 tried in this Court before a jury duly empaneled and sworn to try said cause, and on January 21, 1949, a verdict of guilty was returned by said jury as to this Defendant, JAY G. WILLIAMS on counts numbered 2-4-6 and 8 of the said Indictment in Case No. 7279-M-Criminal and that the said jury was unable to agree as to any said defendant in said case No. 7279-M-Criminal on counts numbered 1-3-5 and 7 of said indictment, and that on February 11, 1949, as to JAY G. WILLIAMS in said Case No. 7279-M-Criminal, this Court entered judgment and commitment of one year on counts numbered 2-4-6 and 8 to run consecutively as to said JAY G. WILLIAMS or a four-year sentence in all; that said judgment and conviction still remains in full

force and effect and not in the least reversed or made void.

And the said Defendant, JAY G. WILLIAMS in the in-
227 stant case is one and the same person as the Defendant in this cause, as are the other individual defendants herein, and the said Defendant, JAY G. WILLIAMS states that in the trial of said Case No. 7279-M-Criminal, this Defendant was called as a witness in his own behalf and testified as alleged in the indictment herein, to-wit: that he had not struck, bruised, battered, beaten, assaulted or tortured any of the complaining witnesses, PURNELL, PRIEST, ROBINSON or STURNIOLA, and that the said fact or facts so testified to by this Defendant in his own behalf and denial of said assault and battery as aforesaid, was the act constituting the basis of the claim charged in said criminal case No. 7279-M-Criminal and this fact was necessarily determinative of the issue—and this Defendant alleges that his conviction under counts numbered 2-4-6 and 8 of said indictment numbered 7279-M-Criminal bars a prosecution for perjury in the instant case.

WHEREFORE, this Defendant prays that he be discharged, and the indictment herein be dismissed.

RILEY & DRESSLER

By /s/ A. C. DRESSLER
*Of Counsel*
*Attorney for Defendant*
1030 Seybold Building
Miami, Florida

In United States District Court

*Motion of Andrew J. Yuhas to Dismiss Indictment—Filed May 2, 1949*

Comes now the defendant, Andrew J. Yuhas, by and through his undersigned attorneys, and moves the Court to dismiss the indictment filed against him in this cause and each and every count thereof, and for grounds of said motion says:

1.

That each and every Count of the indictment fails
228 to charge defendants with a public offense or any crime against the laws of the United States of America.

2.

Counts 12, 24, 36 and 48 are duplicitous in that they allege two or more causes of actions.

3.

The present indictment is based upon evidence given on a material issue in case No. 7279-M-CR., and it affirmatively appears that the testimony of defendant, Yuhas, in Criminal Case No. 7279-M was upon a material issue of which the defendant has been adjudged not guilty by a competent jury of this Court, on January 21, 1949, of "wilfully aiding and abeting" in an alleged commission of a substantative offense of conspiracy, and is a bar to the present cause in that the material issue is *res adjudicata*.

4.

It affirmatively appears that the testimony of defendant, Andrew J. Yuhas, upon which the present indictment is based, is the result of alleged testimony given in defendant's behalf and was the basis of the crime charged in Criminal Trial No. 7279-M and upon which defendant was acquitted by a competent jury of this Court. In Case No. 7279-M-CR on which defendant was acquitted of the substantative offense of "willfully aiding and abeting" an alleged conspiracy, the United States Government was the prosecutor and he was a defendant. The basis of the crime charged in case No. 7279-M-CR. on which he was tried and the case now charging him with perjury is identical. The proof requisite in both cases is identical. The finding of the jury in case No. 7279-M-Cr is conclusive of the fact that he, defendant Andrew J. Yuhas, was not testifying falsely, and therefore the United States Government is estopped from charging the defendant Yuhas with having perjured himself in Case No. 7279-M-Cr.

5.

That each and every count fails to charge defendant, Andrew J. Yuhas with an offense under Title 18, Sec-
229 tion 1621, of the United States Code.

6.

The defendant, Andrew J. Yuhas, adopts each and every ground for dismissal made by any and all the remaining

defendants, in so far as the same are pertinent and applicable.

ROBERTS, HOLLAND & STRICKLAND

By: ED STRICKLAND
*Attorney for Defendant,*
*Andrew J. Yuhas*

In United States District Court

*Stipulation—Filed March 28, 1950*

IT IS HEREBY STIPULATED between counsel representing the United States of America and the defendants, Jay G. Williams, Charles R. Ford, John S. Bombaci and Andrew J. Yuhas, that the Court receive in evidence in support of the Motions to Dismiss, filed by the said defendants to the Indictment herein, the true and correct transcript of the shorthand notes taken by an official Court Reporter in the case of United States of America versus Jay G. Williams, *et al*, Case Number 7279-M-CR of this Court, Miami Division, on January 17, 18, 19 and 20, 1949, the Honorable Alfred D. Barksdale as Trial Judge and a jury duly impaneled and sworn to try said case.

IT IS FURTHER STIPULATED between counsel for the respective parties hereto that the Court consider as a part of the evidence herein, as though the same were fully set out herein, a verdict of the Jury dated and entered January 21, 1949 in said cause of the United States of America versus Jay G. Williams, *et al.*, Case Number 7279-M-CR of this Court, wherein said Jury returned a verdict of guilty as to Jay G. Williams as to Counts 2, 4, 6 and 8 of the Indictment therein, and not guilty as to one Perry and John S.
230 Bombaci, Charles R. Ford, Andrew J. Yuhas and Dania Supply Co., doing business as Lindsley Lumber Company, on Counts 2, 4, 6 and 8 of said Indictment therein; said verdict also stating that the Jury was unable to agree as to any defendant on Counts 1, 3, 5 and 7 of said Indictment in Case Numbered 7279-M-CR aforesaid.

IT IS FURTHER STIPULATED THAT the Court receive in evidence, as though the same were fully set out herein, Judgment and Commitment dated and entered February 11, 1949 in said case of United States of America versus the said defendants in said case numbered 7279-M-CR of this Court and recorded in Minute Book 35, Pages 406-408 of this Court, wherein the defendant Jay G. Williams was sentenced ONE YEAR on each Count numbered 2, 4, 6, and 8 to run consecutively.

IT IS FURTHER STIPULATED between the parties hereto that the Indictment in said case numbered 7279-M-CR, consisting of 8 Counts, lately pending in this Court, be considered as a part of the evidence in this case as though the same were fully set out herein.

All of the above matters and things herein stipulated are to be used in support of the said Motions to Dismiss filed by the respective parties defendant herein in the above entitled cause.

Dated at Miami, Florida, this 28th day of March, 1950.

UNITED STATES OF AMERICA
By FRED BOTTS
*Assistant United States District Attorney*

A. C. DRESSLER
*Attorney for Defendant,*
*Jay G. Williams*
1030 Seybold Bldg., Miami, Florida

JOHN D. MARSH
A. C. DRESSLER
*Attorneys for Defendant,*
*John S. Bombaci*
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ED. STRICKLAND
*Of Counsel for the Defendant,*
*Andrew J. Yuhas*

JOHN D. MARSH
*Attorney for Defendant*
*Charles R. Ford*
1402 Court House, Miami, Florida

In United States District Court

*Order—Filed March 28, 1950*

The attached Transcript of Testimony, consisting of 2 Volumes, containing 534 numbered pages exclusive of the Reporter's Certificate, was introduced and received in evidence in Case No. 7333-M-CR, wherein United States of America is plaintiff and Jay G. Williams, *et als.*, are defendants, said testimony as transcribed being received in evidence in support of the Motions to Dismiss filed by the defendants in said case No. 7333-M-CR, said defendants being: JAY G. WILLIAMS, CHARLES R. FORD, JOHN S. BOMBACI, and ANDREW J. YUHAS.

Said Transcript of Testimony is further received in evidence under written Stipulation dated and filed March 28, 1950, in said Case No. 7333-M-CR of this Court.

Dated this March 28, 1950.

JOHN W. HOLLAND,
*District Judge*

On March 28, 1950, Transcript of Testimony taken in Case No. 7279-M-CR., and received in evidence under written Stipulation dated and filed March 28, 1950, was filed in words and figures as follows:

(Transcript of testimony omitted in printing. See Stipulation appearing at side page 823.)

774 In the United States District Court in and for the Southern District of Florida.
Miami Division

No. 7279-M-Cr.

UNITED STATES OF AMERICA
vs.
JAY G. WILLIAMS; JOSEPH V. PERRY; JOHN S. BOMBACI; CHARLES R. FORD; ANDREW J. YUHAS and DANIA SUPPLY COMPANY, a corporation doing business as LINDSLEY LUMBER CO.

*Verdict—Filed Jan. 21, 1949*

Miami, Florida
January 21, 1949.

We, the Jury, find the defendant JAY G. WILLIAMS, guilty of Counts 2, 4, 6 and 8 and the defendant, JOSEPH V. PERRY, not guilty of Counts 2-4-6-8 and the defendant, JOHN S. BOMBACI, not guilty of Counts 2-4-6-8 and the defendant, CHARLES R. FORD, not guilty of Counts 2-4-6-8 and the defendant, ANDREW J. YUHAS, not guilty of Counts 2-4-6-8 and the defendant, DANIA SUPPLY COMPANY, a corporation, doing business as LINDSLEY LUMBER, CO., not guilty of Counts 2-4-6-8.

So say we all.

/s/ M. L. BYRD
*Foreman.*

We, the Jury are unable to agree on Counts 1-3-5-7.
So say we all.

/s/ M. L. BYRD

775 In the United States District Court in and for the Southern District of Florida.

No. 7279-M-Crim.

UNITED STATES OF AMERICA

vs.

JAY G. WILLIAMS; JOSEPH V. PERRY; JOHN S. BOMBACI; CHARLES R. FORD; ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation.

*Indictment (T. 18 USC § 51 (1946 Ed.) (T. 18 USC §52 (1946 Ed.)—Filed Nov. 15, 1948*

The Grand Jury charges:

COUNT ONE

On or about the 28th day of March, 1947, in the Southern District of Florida and within the jurisdiction of this Court, Jay G. Williams, Joseph V. Perry and John S. Bombaci, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and Charles R. Ford, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, Andrew J. Yuhas and Lindsley Lumber Co., a corporation, all of the above named persons being the defendants herein, conspired to injure, oppress, threaten, and intimidate Frank J. Purnell, Jr., a citizen of the United States and of the State of Florida, in the free exercise and enjoyment of the rights and privileges secured to him and protected by the Fourteenth Amendment to the
776 Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery,

by any person exercising the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, it was the plan and purpose of said conspiracy that the said defendants would arrest and detain and cause to be arrested and detained on or about the 28th day of March, 1947, the said Frank J. Purnell, Jr., and would cause the said Frank J. Purnell, Jr., to go to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, and that they would detain the said Frank J. Purnell, Jr., in said shack and, while the said Frank J. Purnell, Jr., was so detained, the said defendants would then and there illegally strike, bruise, batter, beat, assault, and torture the said Frank P. Purnell, Jr., in order illegally to coerce and force the said Frank J. Purnell, Jr., to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of the said Lindsley Lumber Co., and in order illegally to coerce and force the said Frank J. Purnell, Jr., to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing
5 illegal summary punishment upon the said Frank J. Purnell, Jr.; that the said conspiracy was formulated and entered into by the defendant CHARLES R. FORD, while
777 in the employ of the municipality of Miami, Florida, and while acting in his official capacity as aforesaid, and by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY, and JOHN C. BOMBACI, while acting in their official capacities as aforesaid.

In violation of Section 51, Title 18, United States Code (1946 Ed.).

COUNT TWO

On or about the 28th day of March, A. D. 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office

and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of police officer and prescribing the duties of said office and position, defendants herein, did wilfully, under color of the laws, statutes, ordinances, regulations, and customs of the State of Florida and of the municipality of Miami in said State creating the office and position of police officer of the municipality of Miama, Florida, and creating the office and position of special police officer of the municipality of Miami, Florida, subject and cause to be subjected Frank J. Purnell, Jr., an inhabitant of the State of Florida, to deprivation of the rights,
privileges and immunities secured to him and pro-
778 tected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, 1947, the defendants arrested and detained and caused to be arrested and detained the said Frank J. Purnell, Jr., and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, Florida, and did there detain the said Frank J. Purnell, Jr., and while he was so detained the defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said Frank J. Purnell, Jr., in order illegally to coerce and force the said Frank J. Purnell, Jr., to make an admission and confession of his guilt in connection with the alleged theft of personal property, alleged to be the property of said Lindsley Lumber Co.; and in order illegally to coerce and force the said Frank J. Purnell, Jr., to name and accuse other persons as participants in alleged thefts of personal property, alleged to be the property of the said Lindsley

Lumber Co., and for the purpose of imposing illegal summary punishment upon the said Frank J. Purnell, Jr.

That at the time and places aforesaid, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, defendants herein, well knowing all of the premises aforesaid, did in the
779 Miami Division of the Southern District of Florida and within the jurisdiction of this Court, wilfully aid and abet in the commission by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI and CHARLES R. FORD, of the offenses described in this Court.

In violation of Section 52, Title 18, UNITED STATES CODE (1946 Ed.).

COUNT THREE

On or about the 28th day of March, 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, all of the above named persons being the defendants herein, conspired to injure, oppress, threaten, and intimidate Chester M. Robinson, a citizen of the United States and of the State of Florida, in the free exercise and enjoyment of the rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the cus-
780 tody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right

and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, it was the plan and purpose of said conspiracy that the said defendants would arrest and detain and cause to be arrested and detained on or about the 28th day of March, 1947, the said Chester M. Robinson and would cause the said Chester M. Robinson to go to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, and that they would detain the said Chester M. Robinson in said shack and, while the said Chester M. Robinson was so detained, the said defendants would then and there illegally strike, bruise, batter, beat, assault, and torture the said Chester M. Robinson, in order illegally to coerce and force the said Chester M. Robinson to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of the said Lindsley Lumber Co., and in order illegally to coerce and force the said Chester M. Robinson to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said Chester M. Robinson; that the said conspiracy was formulated and entered into by the defendant, CHARLES R. FORD, while in the employ of the municipality of Miami, Florida, and while acting in his official capacity as aforesaid, and by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, while acting in their official capacities as aforesaid.

781 In violation of Section 51, Title 18, United States Code (1946 Ed.).

COUNT FOUR

On or about the 28th day of March, A. D. 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipal-

ity of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami creating the office and position of police officer and prescribing the duties of said office and position, defendants herein, did wilfully, under color of the laws, statutes, ordinances, regulations, and customs of the State of Florida and of the municipality of Miami in said State creating the office and position of police officer of the municipality of Miami, Florida, and creating the office and position of special police officer of the municipality of Miami, Florida, subject and cause to be subjected Chester M. Robinson, an inhabitant of the State of Florida, to deprivation of the rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the
782 State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, 1947, the defendants arrested and detained and caused to be arrested and detained the said Chester M. Robinson and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co. at or near 3810 N. W. 17th Avenue, in said City of Miami, Florida, and did there detain the said Chester M. Robinson, and while he was so detained the defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said Chester M. Robinson in order illegally to coerce and force the said Chester M. Robinson to make an admission and confession of his guilt in connection with the alleged theft of personal property, alleged to be the property of said Lindsley Lumber Co., and in order illegally to coerce and force the said Chester M. Robinson to name and accuse other persons as participants in alleged thefts of personal property, alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said Chester M. Robinson.

That at the time and places aforesaid, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, defendants herein, well knowing all of the premises aforesaid, did in the Miami Division of the Southern District of Florida and within the jurisdiction of this Court, wilfully aid and abet in the commission by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI and CHARLES R. FORD, of the offenses described in this count.

In violation of Section 52, Title 18, United States Code (1946 Ed.).

COUNT FIVE

On or about the 28th day of March, 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, all of the above named persons being the defendants herein, conspired to injury, oppress, threaten, and intimidate Henry W. Priest, a citizen of the United States and of the State of Florida, in the free exercise and enjoyment of the rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, and the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons
784 acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance

with the laws of the State of Florida; that is to say, it was the plan and purpose of said conspiracy that the said defendants would arrest and detain and cause to be arrested and detained on or about the 28th day of March, 1947, the said Henry W. Priest, and would cause the said Henry W. Priest to go to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, and that they would detain the said Henry W. Priest in said shack and, while the said Henry W. Priest was so detained, the said defendants would then and there illegally strike, bruise, batter, beat, assault and torture the said Henry W. Priest in order illegally to coerce and force the said Henry W. Priest to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of the said Lindsley Lumber Co., and in order illegally to coerce and force the said Henry W. Priest to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said Henry W. Priest; that the said conspiracy was formulated and entered into by the defendant, CHARLES R. FORD, while in the employ of the municipality of Miami, Florida, and while acting in his official capacity as aforesaid, and by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, while acting in their official capacities as aforesaid.

In violation of Section 51, Title 18, United States Code (1946 Ed.).

785 COUNT SIX

On or about the 28th day of March, A. D. 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regu-

lations of the municipality of Miami creating the office and position of police officer and prescribing the duties of said office and position, defendants herein, did wilfully, under color of the laws, statutes, ordinances, regulations, and customs of the State of Florida and of the municipality of Miami in said State creating the office and position of police officer of the municipality of Miami, Florida, and creating the office and position of special police officer of the municipality of Miami, Florida, subject and cause to be subjected Henry W. Priest, an inhabitant of the State of Florida, to deprivation of the rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising
786 the authority of said state, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, 1947, the defendants arrested and detained and caused to be arrested and detained the said Henry W. Priest and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, Florida, and did there detain the said Henry W. Priest, and while he was so detained the defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said Henry W. Priest in order illegally to coerce and force the said Henry W. Priest to make an admission and confession of his guilt in connection with the alleged theft of personal property, alleged to be the property of said Lindsley Lumber Co., and in order to illegally coerce and force the said Henry W. Priest to name and accuse other persons as participants in alleged thefts of personal property, alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said Henry W. Priest.

That at the time and places aforesaid, ANDREW J. YUHAS and Lindsley Lumber Co., a corporation, defendants herein, well knowing all of the premises aforesaid, did in the Miami Division of the Southern District of Florida and within the jurisdiction of this Court, wilfully aid and abet in the commission by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI and CHARLES R. FORD, of the offenses described in this count.

In violation of Section 52, Title 18, United States Code (1946 Ed.).

787 COUNT SEVEN

On or about the 28th day of March, 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the ordinances and regulations of the municipality of Miami, Florida, creating the office and position of police officer and prescribing the duties of said office and position, and ANDREW J. YUHAS and LINDSLEY LUMBER CO., a corporation, all of the above named persons being the defendants herein, conspired to injure, oppress, threaten, and intimidate John P. Sturniolo, a citizen of the United States and of the State of Florida, in the free exercise and enjoyment of the rights and privileges secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of

the State of Florida; that is to say, it was the plan
788 and purpose of said conspiracy that the said defendants would arrest and detain and cause to be arrested and detained on or about the 28th day of March, 1947, the said John P. Sturniolo and would cause the said John P. Sturniolo to go to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co., at or near 3810 N. W. 17th Avenue, in said City of Miami, and that they would detain the said John P. Sturniolo in said shack and, while the said John P. Sturniolo was so detained, the said defendants would then and there illegally strike, bruise, batter, beat, assault and torture the said John P. Sturniolo in order illegally to coerce and force the said John P. Sturniolo to make an admission and confession of his guilt in connection with the alleged theft of personal property alleged to be the property of the said Lindsley Lumber Co., and in order illegally to coerce and force the said John P. Sturniolo to name and accuse other persons as participants in alleged thefts of personal property alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said John P. Sturniolo; that the said conspiracy was formulated and entered into by the defendant, CHARLES R. FORD, while in the employ of the municipality of Miami, Florida, and while acting in his official capacity as aforesaid, and by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY and JOHN S. BOMBACI, while acting in their official capacities as aforesaid.

In violation of Section 51, Title 18, United States Code (1946 Ed.).

COUNT EIGHT

On or about the 28th day of March, A. D. 1947, in the Southern District of Florida and within the jurisdiction of this Court, JAY G. WILLIAMS, JOSEPH V. PERRY and
789 JOHN S. BOMBACI, all being then and there special police officers under written authority from the Director of Public Safety of the City of Miami, Florida, acting under the laws of the State of Florida and the ordinances and regulations of the municipality of Miami creating the office and position of special police officer and prescribing the duties of said office and position, and CHARLES R. FORD, who was then and there a police officer employed by the municipality of Miami, State of Florida, acting under the laws of the State of Florida, and the

ordinances and regulations of the municipality of Miami creating the office and position of police officer and prescribing the duties of said office and position, defendants herein, did wilfully, under color of the laws, statutes, ordinances, regulations and customs of the State of Florida and of the municipality of Miami in said State creating the office and position of police officer of the municipality of Miami, Florida, and creating the office and position of special police officer of the municipality of Miami, Florida, subject and cause to be subjected John P. Sturniolo, an inhabitant of the State of Florida, to deprivation of the rights, privileges and immunities secured to him and protected by the Fourteenth Amendment to the Constitution of the United States, to-wit, the right and privilege not to be deprived of liberty without due process of law, the right and privilege to be secure in his person while in the custody of the State of Florida, the right and privilege not to be subjected to punishment without due process of law, the right and privilege to be immune, while in the custody of persons acting under color of the laws of the State of Florida, from illegal assault and battery by any person exercising the authority of said State, and the right and privilege to be tried by due process of law and if found guilty to be sentenced and punished in accordance with the laws of the State of Florida; that is to say, on or about the 28th day of March, 1947, the defendants arrested and detained and caused to be arrested
790 and detained the said John P. Sturniolo and brought and caused him to be brought to and into a certain building sometimes called a shack on the premises of the Lindsley Lumber Co. at or near 3810 N. W. 17th Avenue, in said City of Miami, Florida, and did there detain the said John P. Sturniolo, an while he was so detained the defendants did then and there illegally strike, bruise, batter, beat, assault and torture the said John P. Sturniolo in order illegally to coerce and force the said John P. Sturniolo to make an admission and confession of his guilt in connection with the alleged theft of personal property, alleged to be the property of said Lindsley Lumber Co., and in order illegally to coerce and force the said John P. Sturniolo to name and accuse other persons as participants in alleged thefts of personal property, alleged to be the property of the said Lindsley Lumber Co., and for the purpose of imposing illegal summary punishment upon the said John P. Sturniolo.

That at the time and places aforesaid, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation, defendants herein, well knowing all of the premises aforesaid, did in the Miami Division of the Southern District of Florida and within the jurisdiction of this Court, wilfully aid and abet in the commission by the defendants, JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI and CHARLES R. FORD, of the offenses described in this count.

In violation of Section 52, Title 18, United States Code (1946 Ed.).

A true bill.

/s/ J. HOMER MERCER
*Foreman*

/s/ FRED BOTTS
*Asst. United States Attorney*

791 (Reverse Side)

United States District Court
Southern District of Florida
Miami Division

THE UNITED STATES OF AMERICA
vs.
JAY G. WILLIAMS, JOSEPH V. PERRY, JOHN S. BOMBACI, CHARLES R. FORD, ANDREW J. YUHAS and LINDSLEY LUMBER Co., a corporation.

*Indictment*

Vio.: T 18 USC 51 and 52 (1946 Ed.).
Civil rights.
A true bill.

/s/ J. HOMER MERCER
*Foreman.*

Filed in open court this 15th day of November, A. D. 1948.

EDWIN R. WILLIAMS,
*Clerk.*

By EARLE F. SPRIGG,
*Deputy Clerk.*

792 In the United States District Court

Case No. 7279-M-Cr.

*Judgment and Commitment—Filed Feb. 11, 1949*

On this 11th day of February, 1949, came the United States Attorney, and the defendant JAY G. WILLIAMS, appearing in proper person, and attended by his counsel, William J. Pruitt, Esq., and L. J. Cushman, Esq., and

The defendant having been convicted on verdict of guilty of Cts. #2, #4, #6 and #8 of the offense charged in the Indictment in the above-entitled cause, to wit:

Wilfully under color of law, subjected and caused certain persons, inhabitants of the State of Florida, to deprivation of their rights, privileges and immunities secured to them and protected by the Fourteenth Amendment to the Constitution of the United States.

And the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, IT IS BY THE COURT

ORDERED AND ADJUDGED that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of

ONE YEAR on each of Counts 2, 4, 6 and 8, sentence on each Count to run consecutively.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) A. D. BARKSDALE,
*United States District Judge.*

793 In United States District Court

*Order Dismissing Indictment—Filed March 28, 1950*

The several motions to dismiss the indictment in this case were argued on the 23rd day of March 1950. The defendant Bombaci filed no motion but a ruling on the motions filed and argued will serve to dispose of the case as to Bombaci.

First I shall discuss the counts in this indictment dealing with the substantive counts in case No. 7279. Williams has been convicted on the substantive counts in said case No. 7279. It is the beating of the victims by Williams that was involved in the substantive counts in case No. 7279, on which he was convicted, that is involved in the counts in this perjury indictment with reference to alleged false swearing in case No. 7279. Conviction in this case, No. 7333, would constitute double jeopardy.

Ford, Bombaci and Yuhas were found not guilty on the substantive counts in case No. 7279. While the defendants Yuhas and the corporate defendant were charged in the substantive counts with aiding and abetting, the defendants Ford and Bombaci could have been found guilty under the general law of aiding and abetting. The jury's determination that they were not guilty was a determination of their guilt whether as principals or accessories. Whether they had seen or observed Williams beat the victims was a part and parcel of the charge against them in the substantive counts. Under the case of Ehrlich vs. United States, 145 F. (2) 693, the counts in this perjury indictment based on alleged false swearing in defending the charges contained in the substantive counts in No. 7279 are bad.

Next I will discuss the counts in this indictment charging perjury in the defense of the conspiracy counts in case No. 7279. Subsequent to the trial in case No. 7279, a new indictment was also found which has four counts under Section 19 (18 U. S. C. Sec. 51), substantially like the four conspiracy counts in case No. 7279. On this last indictment each defendant was convicted and sentenced, and
794 Williams, Bombaci, Perry and Ford appealed. The case was reversed and the indictment ordered quashed. Under these circumstances there was no jurisdiction or right to try the defendants on the conspiracy counts in case No. 7279, and the counts in this perjury indictment based on the conspiracy counts in case No. 7279 are bad.

The indictment in this case is dismissed as to all defendants.

Done and Ordered at Miami, Florida, this 28th day of March, 1950.

John W. Holland
*United States District Judge*

In United States District Court

*Motion to Vacate Order Dismissing the Indictment and for Rehearing—Filed April 12, 1950*

Comes now Fred Botts, Assistant United States Attorney, and moves the Court to vacate its order heretofore entered in this cause on March 28, 1950, wherein the said Court dismissed the indictment in said cause, and to enter an order vacating said order of dismissal and grant a rehearing and reargument in said cause for the following reasons:

1. The matter now presented is one of great importance in the administration of justice in that the Court manifestly misapprehended or failed to consider certain important and seemingly controlling principles of law, and, if the decision heretofore made is allowed to stand, the Court has established a precedent which, according to many well reasoned cases, (which will be called to the attention of the Court) will encourage perjury by defendants in criminal cases and make perjury by such defendants a safe procedure. (Note 1)

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2. The Court by its order and decision, if it is allowed to stand, has established a perfect defense to a charge of perjury against a defendant whose perjury was committed on a trial for some stated offense by holding that: (a) If the defendant be convicted the conviction bars a prosecution and trial for perjury committed in such trial, because such trial for perjury would constitute double jeopardy; and (b) If the defendant be acquitted, the acquittal constitutes an estoppel preventing prosecution for perjury committed by a defendant on trial in an attempt to secure his acquittal; and (c) If there be a mistrial, the former trial, notwithstanding there was no verdict, constitutes former jeopardy which will prevent a trial for perjury.

The Court, in making the rulings having the effect above stated has manifestly failed to consider the law applicable to such a situation as stated in the cases cited. (See Note 2)

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Note 1:

Teague v. Commonwealth
172 Ky. 665
189 S. W. 908.
L. R. A. 1917 B. 733

Murff v. State
172 S. W. 238

Note 2:

See numerous cases cited as to Grounds 1 and 3.

3. The Court in finding and ruling as to the defendant Williams "conviction in case No. 7333 would constitute double jeopardy" has manifestly overlooked and failed to consider the fact that for the doctrine of double jeopardy to apply, *the two offenses must be identical in law and fact* (Note 3) and that by no stretch of the imagination could a beating alleged to have taken place on March 28, 1948, in an attempt to force a confession from the victim be
796 the same offense, or anything like the same offense as perjury on January 17, 1949, even though the perjury was committed in the trial of a former offense.

4. As to the conspiracy counts there was a mistrial and no verdict rendered, and there are no cases which hold that a mistrial constitutes an estoppel by virtue of the doctrine of double jeopardy (note 4), and that as to the conspiracy counts, even if the offenses were identical in law and fact, there would not be an estoppel, under the principle of double jeopardy, to a re-trial of the case of conspiracy, or to a trial of perjury if that offense were held to be identical in law and fact and, therefore, manifestly the Court failed to consider that there is no principle of law remotely appli-

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NOTE 3:

Morehead v. U. S.
270 Fed. 210 on 212

Morgan v. Devine
237 U. S. 632,
59 L. Ed. 1153

Burton v. U. S.
202 U. S. 344,
50 L. Ed. 1057 on 1070

Bartlett v. U. S.
166 Fed. 2nd, 928 on 931

Curtis v. U. S.
67 Fed. 2nd, 552 on 553

Jay v. State
73 So. 137 on 138-39

Miller v. U. S.
300 Fed. 529 on 532-33

Miles v. State
165 S. W. 567

Wadlington v. Commonwealth
59 S. W. 851

See brief pages 12-16

NOTE 4:

No cases need be cited that a mistrial estops another trial under the principle of double jeopardy. As to the counts based on the conspiracy counts the Court grounds its ruling on the invalidity of the conspiracy counts, which is covered by other grounds of the motion.

cable holding that as to the perjury counts based on the conspiracy indictments, a trial for perjury would con-
797 stitute double jeopardy.

5. The Court predicates its ruling on the Ford, Bombaci and Yuhas counts related to the trial of the substantive charges on which Williams was convicted and the others acquitted, on the law with respect to the trial of accomplices, and on the law with respect to principals and accessories, and asserts that whether or not Ford, Bombaci and Yuhas had seen or observed Williams in the act of beating the alleged victims was "a part and parcel of the charge against them in the substantive counts." The Court then, on the basis of the facts last mentioned in the above quotation grounds its ruling on the law laid down in the Erlish case.

In so doing the Court overlooked and failed to consider that in the Erlish case the rule is laid down which holds that perjury will not lie if the trial of the perjury case would be in effect a re-trial of the previous case so that a verdict of guilty in the perjury case would necessarily imply a contradiction of the verdict of acquittal, and that in respect to the charges of perjury

(a) The fact that Ford, Bombaci and Yuhas had "seen and observed" Williams in the act of beating the victims, was not the charge being tried, and that the fact that Ford, Bombaci and Yuhas had seen this beating, standing alone, would not make them guilty as aiders and abetters, or as principals. Hence the vact (vel non) that they had seen the beating, was not the fact on trial, and that a finding in the perjury case that they had seen the beating, would in no way impeach the verdict acquitting them as to substantive counts.

798 (b) The fact of the presence of Ford, Bombaci and Yuhas, while Williams was beating the victims (which beating—but not the presence of Ford, Bombaci and Yuhas, the verdict of guilty as to Williams affirmed) was, by no stretch of the imagination the issue on trial. Therefore it is plain that a verdict in the perjury case which would in effect affirm only that Ford, Bombaci and Yuhas were present and saw the beating, and therefore testified falsely when they swore that they did not see and observe the beating, could not possibly import a contradiction of a verdict which merely found that they did not beat the victims.

(c) No one with any regard for the facts can, in good faith, assert that a charge that certain victims

(1) were arrested,
(2) by certain officers, and
(3) by them taken to a certain shack, and
(4) were in said shack beaten and abused,
(5) for the purpose of extorting confessions of guilt, and
(6) that the defendants named in the perjury counts participated in the beating.

*which was the charge on trial as to the substantive counts* is the *very identical charge* involved in imputing perjury to one who was present, and saw the beating, and, nevertheless sworn that he had not "observed and seen" one Williams in the act of administering the beatings, so that a verdict of guilty of perjury on a charge that the defendant had "observed and seen" the beating by Williams and swore under oath that he had not "observed and seen" the same, would necessarily import a contradiction of a verdict of not guilty of the substantive charge as stated above. And unless a verdict of guilty in the perjury case would necessarily import a contradiction of the verdict of not guilty as to the substantive counts, the Erlich case is wholly inapplicable.

6. The Court predicates its ruling as to all the perjury counts which allege false swearing material to the
799 conspiracy counts, upon the sole ground that these counts have now been held to charge no offense. The Court says: "Under these circumstances there was no jurisdiction or right to try the defendants on conspiracy counts in case No. 7279, and the counts in this perjury indictment based on the conspiracy counts in case No. 7279 are bad."

In so ruling the Court overlooked and failed to consider the law, established, so far as we can ascertain without any dissent, that

(1) Invalidity of the indictment did not oust the Court's jurisdiction.

(2) Perjury may be predicated on false swearing in a trial, notwithstanding the fact that error was committed in the trial requiring reversal, or the indictment on trial was found to be bad.

(3) Jurisdiction is the right to hear and determine a cause. And no one will contend that the Court did not have jurisdiction to consider an indictment based on Title 18, Section 51; and that the Court had jurisdiction of the per-

sons of the defendants. Under these circumstances, the invalidity of the indictment merely produced error, not lack of jurisdiction (Note 5)

800 See discussion and authorities: Brief pages 8 to 11.

FRED BOTTS
Fred Botts
*Assistant United States Attorney*

In United States District Court

*Order Denying Motion to Vacate and for Reargument—Filed April 12, 1950*

Motion to quash the Court's order of March 28, 1950, and to grant a rehearing and reargument was presented to the Court on April 10, 1950. The Court has re-examined its ruling in order to determine whether a reargument will be had.

As to Williams and the counts in this indictment based on false swearing in defendant the substantive counts in Case No 7279, the Court adheres to its opinion that conviction here would constitute double jeopardy.

As to Ford, Bombaci and Yuhas, and the counts in this indictment based on false swearing in defendant the substantive counts in Case No. 7279, the Court adheres to its opinion expressed in said order of March 28, 1950.

As to the counts in this indictment charging perjury in the defense of the conspiracy counts in Case No. 7279, the Court is of the opinion that the holding of the Court of Appeals in the Williams Case, 179 F. (2) 644, as to indictment in the new conspiracy case is to the effect that the

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NOTE 5:

State v. Rowell
78 Vt. 28.
47 Atl. 111
82 Am. St. Rep. 918

State v. Brown
38 Atl. 713

Marford v. State
63 Pas. 953
54 L. R. A. 513, And extensive note.

41 Am. Jur (Per jury) Par. 23, page 15

Wharton Criminal Law
12th Ed.
Par. 1538

West v. U. S.
258 Fed. 413, Text 416-417

Kelly v. State
103 S. W. 189

conspiracy counts in case No. 7279 were bad to the extent that there was no jurisdiction to try the defendants on the conspiracy counts in Case No. 7279, and that a charge of false swearing in the defense of said charges of conspiracy under 18 U. S. C. §51, would not lie.

Being of the opinion expressed, a reargument should not be ordered. The said motion is denied.

801 DONE AND ORDERED at Miami, Florida, this 12 day of April, 1950.

JOHN W. HOLLAND
*United States District Judge*

In United States District Court

*Notice of Appeal—Filed May 11, 1950*

The United States hereby appeals to the Supreme Court of the United States from the order of the United States District Court for the Southern District of Florida, Miami Division, entered March 28, 1950, motion for rehearing denied April 12, 1950, dismissing the indictment charging the defendants with perjury in violation of 18 U. S. C. 1621.

Dated May 11, 1950.

PHILIP B. PERLMAN
Philip B. Perlman,
*Solicitor General.*
Department of Justice,
Washington, D. C.

814 In United States District Court

*Stipulation—Filed May 12, 1950*

It is hereby stipulated and agreed that on March 25, 1949, the defendants in the above entitled cause were arraigned, that at that time the defendant John S. Bombaci appeared in person; that at that time it was stipulated and agreed verbally between the attorney for the United States and John S. Bombaci that the said Bombaci should have the benefit, as if filed on his behalf, of any grounds of attack on said indictment which might be interposed on behalf of the defendants Jay G. Williams, Charles R. Ford and Andrew J. Yuhas, and it was on that day agreed that the attorneys for Charles R. Ford, to-wit, John R. Marsh; Jay G Williams, to-wit, Riley & Dressler and A. C. Dressler; Andrew

J. Yuhas, to-wit, Roberts, Holland and Strickland; that said John R. Marsh, Riley and Dressler, and Roberts, Holland and Strickland would appear on behalf of said John S. Bombaci.

It is further stipulated that when the several motions to dismiss filed on behalf of Jay G. Williams, Charles R. Ford and Andrew J. Yuhas were argued in this cause, resulting in the order dismissing said indictment being entered on the 28th day of March, 1950, the attention of the Court was directed to the fact that no formal motion had been filed on behalf of the said Bombaci, and it was then and there verbally stipulated and agreed, with the approval of the Court, that John S. Bombaci should have the benefit of any ground of attack made on behalf of any one or more of the other defendants, as if said ground of attack had been specifically interposed on his behalf.

It is further stipulated that the reference to the defendant John S. Bombaci contained in the order dated
815 March 28, 1950, was incorporated in said order based upon and to make effective the verbal stipulation which had theretofore been made before the Court as aforesaid.

It is further stipulated that in any appeal filed in this cause, the said Bombaci shall have the benefit of the stipulations, agreements and understandings hereinbefore referred to.

/s/ FRED BOTTS
Fred Botts
*Assistant U. S. Attorney*

/s/ A. C. DRESSLER
*Counsel for Appellee Jay G. Williams and John S. Bombaci.*

/s/ JOHN D. MARSH
*Counsel for Appellees Charles R. Ford and John S. Bombaci.*

/s/ ERNEST E. ROBERTS
*Counsel for Appellees Andrew J. Yuhas and John S. Bombaci.*

The facts stated in this stipulation are in accord with the Court's recollection, and the said stipulation is approved by the Court.

/s/ JOHN W. HOLLAND
*United States District Judge*

816 In United States District Court

*Designation of Contents of Record on Appeal—Filed May 12, 1950*

To the Clerk of said Court:

You are hereby requested to make a transcript of the Record of Appeal to be filed in the Supreme Court of the United States, pursuant to Notice of Appeal heretofore filed herein, and to include in such transcript of record copies of the following:

(1) The indictment.

(2) Motion of Charles R. Ford to dismiss indictment, filed May 2, 1949.

(3) Motion of Jay G. Williams to dismiss indictment, filed May 2, 1949.

(4) Motion of Andrew J. Yuhas, to dismiss the indictment, filed May 2, 1949.

(5) Stipulation dated March 28, 1950 and signed by Fred Botts, Assistant U. S. Attorney; A. C. Dressler, attorney for defendant Jay G. Williams; John D. Marsh and A. C. Dressler, attorneys for defendant John S. Bombaci; Ed Strickland, attorney for defendant Andrew J. Yuhas, and John D. Marsh, attorney for defendant Charles R. Ford.

(6) Transcript of testimony in Case No. 7279 consisting of two volumes of testimony, together with the order
817. of the Judge appended thereto, as filed in evidence March 28, 1950.

(7) Verdict of the jury entered January 21, 1949, in the case of United States v. Jay G. Williams, *et al.*, Case No. 7279-M-CR., mentioned in stipulation dated March 28, 1950, which stipulation was hereinbefore ordered incorporated into this record.

(8) Indictment in case No. 7279-M-CR., mentioned on page 2 of stipulation filed March 28, 1950.

(9) Judgment and commitment dated and entered February 11, 1949, in the case of United States v. Jay G. Williams, *et al*, No. 7279-M-CR., as recorded in minute book 35 at pages 406-407 of the District Court for the Southern District of Florida, as mentioned in stipulation filed March 28, 1950.

(10) Order dated March 28, 1950, dismissing indictment.

(11) Motion to vacate the order entered on March 28, 1950, and granting a rehearing and argument of the several motions to dismiss said indictment, which motion was filed on April 12, 1950.

(12) Order dated April 12, 1950, and filed April 12, 1950, denying motion for reargument and motion to vacate the order of March 28, 1950.
(13) Notice of appeal herein filed on May 11, 1950.
(14) Statement as to jurisdiction filed May 11, 1950.
(15) Notice to attorneys for appellees filed herein on May 12, 1950.

(17) This designation of contents of record and
818 proof of service thereof.

PHILIP B. PERLMAN
Philip B. Perlman
*Solicitor General*
Department of Justice,
Washington, D. C.

UNITED STATES OF AMERICA, APPELLANT
HERBERT S. PHILLIPS, U. S. Attorney
By FRED BOTTS
Fred Botts,
*Assistant U. S. Attorney*

Received a copy of the above Designation of Contents of the Record, and service thereof accepted.

RILEY & DRESSLER
By A. C. DRESSLER
*Counsel for appellee Jay G. Williams and John S. Bombaci*

JOHN D. MARSH
*Counsel for appellees Charles B. Ford and John S. Bombaci*

ERNEST E. ROBERTS
*Counsel for Appellees Andrew J. Yuhas and John S. Bombaci*

819 Clerk's Certificate to foregoing transcript omitted in printing.

820 Supreme Court of the United States
No. 134 , October Term, 1950

*Order Noting Probable Jurisdiction—October 16, 1950.*

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is assigned for argument immediately following No. 365, Williams vs. United States.

821 In the Supreme Court of the United States
October Term, 1950

No. 134

*Statement of Points to be Relied Upon—Filed October 28.*

Pursuant to Rule 13, Paragraph 9, of this Court, appellant states that it intends to rely upon the following points:

1. The District Court erred in holding that the conviction of appellee Williams under Section 20 of the Criminal Code, 18 U.S.C. (1946 ed.) 52, barred the instant prosecution for perjury under 18 U.S.C. 1621 for false statements made during the course of the trial.

2. The District Court erred in holding that the acquittal of appellees Ford, Bombaci and Yuhas in the prosecution under Section 20 of the Criminal Code barred the instant prosecution for perjury for false statements made during the course of the trial.

3. The District Court erred in holding that appellees could not be prosecuted for perjury for false statements made during the course of their trial for conspiracy under Section 19 of the Criminal Code, 18 U.S.C. (1946 ed.) 51, in view of the fact that a superseding indictment under which they were later tried was subsequently held to be invalid by the Court of Appeals.

4. The District Court erred in dismissing the indictment.

822 The parts of the record to be printed are designated in the attached stipulation between the parties.

PHILIP B. PERLMAN
Philip B. Perlman,
*Solicitor General.*

823 In the Supreme Court of the United States
October Term, 1950

No. 134

*Stipulation as to Printing of Record—Filed October 28, 1950.*

The perjury charges involved in this case arose out of the trial of appellees under an indictment charging violations of Sections 19 and 20 of the Criminal Code, 18 U.S.C. (1946 ed.) 51, 52. The reporter's transcript of the trial in that case is part of the record on the direct appeal in the

instant case. That transcript is also before this Court as part of the record in No. 365, *Jay G. Williams* v. *United States*, certiorari granted October 16, 1950. Since the entire record in No. 365 is now being printed under the supervision of the Clerk, it is hereby stipulated, subject to the approval of the Court, that the aforesaid transcript of the trial in that case need not be included in the printed record in this case, but may be incorporated by reference to the printed record in No. 365.

The perjury indictment involved in this case consists of 12 counts against each of the four appellees. Counts 1, 2 and 3 are typical of all 12 counts against appellee Williams and counts 4, 5 and 6 against appellee Ford are typical of the remaining counts against him and the counts
824 against appellees Bombaci and Yuhas. In order to simplify the record and avoid repetition, it is further stipulated that only counts 1-6, inclusive, need be printed.

PHILIP B. PERLMAN,
Philip B. Perlman,
*Solicitor General,*
*Counsel for Appellant.*

BART A. RILEY
A. C. DRESSLER
*Counsel for Appellees*
*Jay G. Williams and*
*John S. Bombaci*

JOHN D. MARSH
*Counsel for Appellees*
*Charles R. Ford and*
*John S. Bombaci*

ROBERTS, HOLLAND & STRICKLAND
ERNEST E. ROBERTS,
*Counsel for Appellees*
*Andrew J. Yuhas and*
*John S. Bombaci*

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